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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,523	05/25/2001	WALTER R. KLAPPERT	600253-002	4790
27148 7590 07/07/2009 POL SINELLI SHUGHART PC 700 W. 47TH STREET SUITE 1000 KANSAS CITY, MO 64112-1802				
EXAMINER				
BROWN, RUEBEN M				
ART UNIT		PAPER NUMBER		
2424				
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07/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/866,523

**Applicant(s)**

KLAPPERT ET AL.

**Examiner**

REUBEN M. BROWN

**Art Unit**

2424

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5-7 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/4/09 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argument is that Wistendahl is related to linking A/V within a the same document, not to different A/V. Such a feature was well known in the art and is clearly taught by Rosengren

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 5-7 & 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wistendahl, (U.S. Pat # 5,708,845), in view of Rosengren, (U.S. Pat # 5,633,683) and Matsubara, (U.S. Pat # 5,699,106).

Considering claim 1, the claimed system for providing an interactive look-and-feel in a playing device receiving digital information:

Regarding the claimed, *'signal generator to generate a digital signal comprising interleaved bits of at least one audio or video data, binary data for play on a playing device, and private data'*, Wistendahl teaches that the interactive video system at server 30 transmits Frame data (corresponds with audio or video data); N data & IDM program (corresponds with private data); see col. 5, lines 45-67; col. 6, lines 1-41; col. 8, lines 24-35; Fig. 2. As for the claimed *'signal generator'*, Wistendahl discloses that the interactive data stream is authored by associating indexed N data with the corresponding frame data, and is transmitted to the subscribers, see Fig. 5A; Fig. 5B; col. 9, lines 15-67 & col. 12, lines 10-50.

The claimed *'private data that including an event identification for the at least one audio, video or binary data for linking to additional at least one audio, video or binary data, such that each hot-spot is linked to at least one of different audio, video or binary data, wherein the link*

*data includes a set of coordinates defining a location on the playing device*, corresponds with Wistendahl, which teaches that the N data defines the area encompassing the hot spot on the screen, see col. 5, lines 45-67; col. 9, lines 10-25. As for the claimed, *'synchronization time'*, is broad enough to read on the frame # associated with hot spots, as discussed by Wistendahl, see col. 5, lines 21-45; col. 11, lines 25-45; Fig. 2 & Fig. 5C. The *'link data including a set of coordinates defining allocation on the playing device'* reads on the disclosure in Wistendahl, col. 5, lines 25-65; col. 8, lines 39-55.

However, to the extent that the data linked in Wistendahl is within the same video stream, and would not read on the newly amended, different audio or video data, Rosengren provides a teaching of transmitting an image (mosaic) that enables a user to interactively select one or more different A/V streams by point & click with the original image, see col. 6, lines 10-65. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Wistendahl with the feature of allowing the user to access different A/V streams at least for the benefit of providing user with a wider variety of programming from a single interface as taught by Rosengren, col. 1, lines 10-50 & Abstract.

As for the further claimed, *'link event identification indicating the at least one different of audio, video data and binary data'*, reads on the combination of Wistendahl, see col. 8, lines 29-68; col. 9, lines 1-45. As for the amended claimed, *'continuously broadcasting the digital signals from a head end server without transmission from the playing device for playing the at least one of audio, video and binary data and the additional at least one audio, video and binary*

*data*', Wistendahl is directed to the transmission of the interactive programming over a variety of transmission networks, including at least CATV, col. 6, lines 56-67. However, Wistendahl does not explicitly discuss '*continuously broadcasting*'. Nevertheless, Matsubara teaches that the menu screen and channel information are cyclically transmitted and the invention is operated without up-link transmission, (col. 6, lines 25-67; col. 8, lines 41-62). It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Wistendahl in a manner that the interactive data is cyclically transmitted as taught by Matsubara, which avoids the need to up-link transmission which at least may increase the response time of the system.

As for the additionally claimed feature of the '*private data*' including '*an indication of the number of hot-spots*', the claimed subject matter is met by the disclosure of Wistendahl that the N data lists a value for each hot spot, such as A' (F<sub>i</sub>) for the hot spot of object A; B' (F<sub>i</sub>) for the hot spot of object B, etc, see Fig. 2; col. 6, lines 15-40. Thus the indication of the number of hot spots reads on the highest alphabet (A', B', C', etc.) attached to the instant hot spot and listed in the N data, since the hot spots are sequentially listed.

The claimed '*means for broadcasting the digital signals*', is met by Wistendahl since the video is converted to digital before transmission, see col. 5, lines 25-45; col. 7, lines 1-12.

The claimed *'receiver which receives the digital signal at the user locations, and plays at least one of audio, video or binary data on the playing device, and selectively features the hot-spots'*, reads on the STB 32, see col. 7, lines 35-67 thru col. 9, lines 1-27 & Fig. 4.

Regarding the amended claimed features, *'wherein the set of coordinates defines two or more points, and wherein the receiving device comprises a processor'*, Wistendahl teaches that the N data defines a set of pixels, see col. 4, lines 61-67 thru col. 5, lines 1-65. The claimed *'processor'* is met by the operation of the console processor 40; see Fig. 4; col. 8, lines 65-67 thru col. 9, lines 1-55.

Considering claim 3, the claimed, *'private data enabling a plurality of portions of the broadcasted signal to be separately selectable'*, reads on the coordinates of each graphic icons that are selectable, separate from each the other, a taught by Wistendahl.

Considering claim 5, Wistendahl teaches the data may alternatively be operated in MPEG format; see col. 10, lines 59-67 thru col. 11, lines 1-45, which would require an MPEG encoder at the transmitter and decoder at the receiver, in order for the system to properly operate. Also see Matsubara, col. 3, lines 35-40.

Considering claim 6, reads on the frame numbers associated with each hot-spot, see Fig. 2; col. 5, lines 21-65; col. 11, lines 25-45.

Considering claim 7, the claimed method for providing an interactive look-and-feel, comprises steps that correspond with subject matter mentioned above in the rejection of claims 1, and is likewise analyzed.

Considering claims 10-11, Wistendahl meets the claimed subject matter, Fig. 3 & Fig. 4.

Considering claim 12, reads on Wistendahl receiving the digital interactive signal and processing at the STB 32, see Fig. 4.

Considering claim 13, the claimed subject matter is consistent with the operation of Wistendahl & Matsubara and reads on selecting a hot-spot, which links to additional information.

Considering claim 14, the claimed processor reads on the console processor 40 in Wistendahl.

Considering claims 15-17, the STB 32 in Wistendahl meets the claimed subject matter, Fig. 4; col. 8, lines 20-65.



Art Unit: 2424

**Any response to this action should be mailed to:**

Commissioner for Patents  
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**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/  
Patent Examiner, Art Unit 2424